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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,131

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Darko Pervan

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EXAMINER

KATCHEVES, BASIL S

ART UNIT

PAPER NUMBER

3635

NOTIFICATION DATE

DELIVERY MODE

07/21/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/730,131	PERVAN, DARKO	
	<b>Examiner</b>	<b>Art Unit</b>	
	BASIL KATCHEVES	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,7-20 and 25-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7-20 and 25-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/21/08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

The applicant has added new claims 39 and 40 in the paper dated 3/20/08. Pending claims 1-3, 5, 7-20 and 25-40 are examined below.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-3, 5, 7-20 and 25-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,763,643 to Martensson in view of U.S. Patent No. 2,497,837 to Nelson.**

Regarding claims 1, 15 and 26, Martensson discloses a laminated (fig. 2c: 3) rectangular floorboard (fig. 6) with integrated connectors (fig. 8: 2) with a vertical plane between boards when joined with other boards (fig. 8: vertical edge of 3). Martensson also is capable of being locked together by angling the boards together from a generally vertical position. Martensson discloses the basic claim structure of the instant application but does not disclose specific long and short edge dimensions. Nelson discloses a floorboard (title) made from a width less than 10cm (column 2, lines 8-9) and a length less than 80 cm (column 1, lines 49-51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify

Martensson by making a board of these dimensions as a design choice in order to fit into particular areas where available space is an important consideration. Martensson also discloses the boards as having opposing long edges, opposing short edges (fig. 6) and a top layer of a laminate (fig. 8: 1).

Regarding claims 2, 19, and 30, Martensson discloses the boards as being capable of inward locking (fig. 8: see point 22 and groove 21).

Regarding claim 3, Martensson discloses the boards as being capable of releasing upward angling, as in lifting one edge to free the opposite edge from its connection.

Regarding claims 5 and 31, Martensson discloses the use of a thermosetting resins for board surface layers (column 2, lines 10-11).

Regarding claims 7, 16, and 33-38, Martensson discloses the connector as being a separate part, integrated when installed, (fig. 8: 10) which projects beyond the edge and connects with the core portion (fig. 8: 5) of the board. The connector extending from all sides to create a flooring (fig. 6).

Regarding claims 8, 20, Martensson discloses a long edge having a projection (fig. 8: 22) and a short opposing edge having a groove (fig. 8: 21).

Regarding claims 9, 18, Martensson discloses the board as having a decorative wood pattern (fig. 6: 1). Martensson discloses the basic claim structure of the instant application but does not disclose specific length dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claim 10, Martensson discloses a patterned floor made from the floorboards (fig. 5).

Regarding claims 11, 13, Martensson discloses two short sides connected together (fig. 6).

Regarding claim 12, Martensson discloses two boards connected by their short sides (fig. 6) as being mutually displaced.

Regarding claim 14, Martensson discloses a long edge of a block (fig. 6, see long side) coinciding with a union of two short edges (fig. 6: see short side joint intermediate with long edge), the short side edges being perpendicular to the long side edge. Also, Martensson discloses placing the boards in an order to create a square form (fig. 5).

Regarding claim 17, Martensson discloses the surface layer as being a laminate (fig. 8: 3). However, Martensson discloses the basic claim structure of the instant application but does not disclose specific surface layer dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Regarding claims 25 and 27, Martensson discloses a floor made from locked rectangular floorboards (fig. 6) capable of being locked by inward angling (fig. 8: 21, 22) and by laterally sliding panels along joining a mirrored connector 10, the boards, when connected together, create a vertical plane between upper edges (fig. 8: vertical edge of 3 & fig. 2b: 2). Martensson also discloses the boards as connected long side to short side and short side to short side (fig. 6: see T shaped intersection of corners).

Regarding claim 28, Martensson discloses the boards as capable of being joined by inward angling (fig. 8: 21, 22).

Regarding claim 29, claim 29 is rejected for reasons cited in the rejection of claim 1. In addition, Martensson discloses the boards as capable of being joined long side to long side, short side to short side, and long side to short side (fig. 6 and fig. 2b: 4 & 10).

Regarding claim 30 Martensson discloses the boards as capable of inward angling.

Regarding claim 32, Martensson discloses a flooring system having a plurality of rectangular boards (fig. 6), with integrated connectors that when joined together, their upper edges are on a vertical plane joined together (fig. 2c: 2), the floorboards are capable of connecting in a horizontal direction and a vertical direction with mirror board edge images (fig 2c). However, Martensson does not disclose specific dimensions of the sides. Nelson discloses a floorboard (title) made from a width less than 10cm (column 2, lines 8-9) and a length less than 80 cm (column 1, lines 49-51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Martensson by making a board of these dimensions as a design choice in order to fit into particular areas where available space is an important consideration.

Regarding claims 39, 40, Martensson discloses an embodiment (fig. 2c) having, on all sides, two tongues (2, 6) and a groove (4"), the boards being mirror images and aligned along a common line when connected by connector 10', the edges extending longitudinally in parallel directions and in perpendicular directions, those long versus short sides.

### **Response to Arguments**

Applicant's arguments filed 3/20/08 have been fully considered but they are not persuasive. The applicant argues the Nelson reference does not teach the claimed dimensions. However, the applicant should note, as stated in the rejection above, column 2, line 8 of Nelson discloses a 3 inch width (7.6 cm) which is less than 10cm, as claimed. Also, column 1, line 50 teaches the length as being greatly exceeding the width. Greatly exceeding may be construed, at most probably, as two or three times the width. This would be approximately 24 cm which is less than the claimed 80cm, meeting the limitations. This is an obvious rejection and the combination is properly teaching these dimensions. The applicant argues the steps of assembling the floorboards. The applicant should note that the structural limitations of the floorboards are met by the prior art and the properties of angling, horizontal and vertical movement can be met by the prior art since edges are curved and center connectors are flexible in order to allow for angular movement. This is an obvious rejection and angling is an obvious means for assembling. The applicant argues, regarding claim 27, that Martensson does not disclose mirror inverted floorboards, but then states they are identical. Martensson discloses mirror images in figures 2b and 2c, and in 2a and opposite that, shown in figure 2a. The applicant argues that the floor boards and connectors are identical. This does not appear to be possible by viewing figures 2a-c. The applicant argues that long sides and short sides are not against each other however, a portion of the short sides are in contact with a

portion of the long sides. Also, the applicant should note that figure 5 shows an embodiment with sides meeting the claimed limitations of “short” and long” sides, as claimed, these sides abut each other and also meet the claimed limitations of what a short and long side is, structurally. The applicant argues the length dimensions of the prior art as not being even multiples, this is an obviousness rejection and the dimensions would have been obvious design choices.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is



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(571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot, can be reached at (571) 272-6777.

/Basil Katcheves/

Primary Examiner, Art Unit 3635